In the Supreme Court of the United States

OCTOBER TERM, 1969

No. 290

WINTON M. BLOUNT, POSTMASTER GENERAL,
PETITIONER

v.

UNITED FEDERATION OF POSTAL CLERKS,
AFL-CIO, ET AL.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

REPLY BRIEF FOR THE PETITIONER

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1. Respondents contend (Br. in Opp. 3-4) that, because respondent Groettum was told on Thursday that he would be required to work on Saturday and Sunday of that week and could take off Monday and Tuesday of the following week, the Postmaster General's interpretation of the 1965 legislation permits him to continue "the outlawed practice of granting compensatory time off on an hour-for-hour basis."

This argument is unsound and, in any event, is beside the point.

a. The contention ignores the fact that one of the major changes made by the 1965 legislation was a substitution of a so-called "service week" for postal employees, to be established by the Postmaster General, for the old fixed Monday-to-Friday workweek. The Postmaster General established a service week that runs from Saturday to Friday. Groettum thus was not required to work a sixth and seventh day in the same week, but was merely required temporarily to shift the five days during which he worked in the next "service week."

b. More importantly, this was not the basis upon which the court of appeals decided this case. The fact that Groettum's temporary shift of workdays was from Monday and Tuesday to Saturday and Sunday during one service week was coincidental. Both the Union and Groettum were plaintiffs in this suit. Under the court of appeals' interpretation of the statute, which respondents presumably also espouse, a postal employee whose regular scheduled workweek was from Saturday through Wednesday would be entitled to overtime if in a particular week he was required to work Thursday and Friday instead of Tuesday and Wednesday. It is this award of overtime pay when a postal employee is required temporarily to work on days other than his regular schedule but still only five days a week, which we are challenging in the petition as unjustified by the statute.

2. Respondents further contend (Pet. 8-9) that the Post Office's estimate of the substantial additional costs that this decision would entail (see the Petition pp. 10-11) are "scare figures" without any support in the record. One of the estimates given was that, if the decision were applied retroactively, it would cost more than $100 million from the effective date of the Act through fiscal year 1969. On June 13, 1969, the respondent union, respondent Groettum and two other postal employees filed, for themselves and on behalf of all other postal employees similarly situated, a suit for back wages seeking to apply the decision below retroactively to the effective date of the Act. *United Federation of Postal Clerks, et al.* v. *United States and Winton M. Blount, Postmaster General,* Civil Action No. 1611-69 (D.D.C.). The Postmaster General's concern over the likely financial impact of this decision was fully justified.

Respectfully submitted.

ERWIN N. GRISWOLD,
Solicitor General.

AUGUST 1969.

END